

Application No.: 10/608,026
Amendment dated September , 2005
Reply to Office Action of March 14, 2005

Remarks/Arguments:

In the Specification, Paragraph [001] now reflects the true history of the application. Paragraph [0094] has been revised to correct a typographical error wherein "55" was typed instead of "33". There is no "55" series of Pebax polymers.

In the Claims, claims 12 to 24 and 26 to 33 remain in consideration under this election.

With regard the claim rejections under 35 USC 112, the examiner's suggestions with respect to claims 23 and 24 have been incorporated by deleting the term "allylic monomer" from the claims. In addition line 7 of claim 24 has been amended to recite "a radiation crosslinkable composition..." rather than "the radiation crosslinkable composition...". Furthermore claim 32 has been amended to eliminate the recital lacking antecedent basis within line 3, namely "wherein said cross-linked composition is...". Finally line 33 of claim 32 has been amended to delete the term "medical device..." lacking antecedent basis and replace it with the recital "device...".

With respect to double patenting rejections of claims 12-24 and 26-31, a "terminal disclaimer" is appended herewith in full compliance with 37 CFR 3.73(b).

With respect to the provisional double patenting rejections of claims 12-24 and 26-31, applicant hereby requests that this item be set aside until all other issues are resolved and the case is in condition for allowance.

With respect to the claims 26, 28, 29 and 31 which are rejected under 35 USC 102, as being anticipated by Suzuki et al (US 5,053,316), applicant respectfully demurs, since the cited composition of Suzuki contains a required photopolymerization initiator not recited in the applicant's composition. The photopolymerization initiators are disclosed in columns 10 (lines 47-68) and 11 (lines 1-58) wherein are recited various compounds of the *aromatic carbonyl type* present in an amount generally in the range of 0.1 to 10% by weight. It is well known to those accomplished in the related arts, that irradiation of Suzuki's composition by the actinic radiation disclosed, namely a light source such as a mercury lamp, metal halide lamp or xenon lamp (column 13, lines 10-15), will not result in the hardening claimed unless the recited photopolymerization initiator is present in the composition. In order to clearly distinguish over the cited Suzuki

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patent, applicant has inserted "*wherein said cross-linked composition is free of aromatic carbonyl compounds*" in claims 26 and 29.

With respect to the claims 23 and 24 which are rejected under 35 USC 102, as being anticipated by O'Neil et al (US '551 or '415), O'Neil recites a crosslinked Nylon block copolymer composition with utility in the production of ...balloon type catheters (column 4, lines 46-48) and ...as electrical insulating material for the wire and cable industry (Column 4, lines 58-59). Therefore we have amended the aforementioned claims to remove references to "angioplasty balloons", "wire and cable jackets" and "coated wires". O'Neil also suggests utility for their composition in a variety of miscellaneous applications in the medical industry due to improvement in the overall elastomeric toughness of the block copolymer thereby providing a more durable product. Therefore we have amended the aforementioned claims to remove references to surgical gloves, birth control sheathes, orthodontic ligatures, and medical implant devices. However, O'Neil does not suggest his composition for use in seals, gaskets or o-rings where increased resistance to solvents is an important improvement. Nor does he suggest its usage in heat shrinkable products wherein multiple process steps such as expansion and subsequent cooling under pressure have to be incorporated in order to impart the shrinkage characteristics desired.

With respect to the claims 26 to 31 which are rejected under 35 USC 102, as being anticipated by O'Neil et al (US '551 or '415), applicant claims a previously crosslinked article containing a monomer crosslinker, which would thereby exhibit an increased tolerance to a subsequent dose of radiation or heat sterilization. However, it is respectfully asserted that O'Neil teaches away from the applicant's claim. Referring to column 4 lines 15-30, O'Neil states, "...an exposure of 5 Mrads...provides optimum...conditions. ...Upon exposure to even higher total levels of radiation.... the samples necked....this is believed to be the result of ...degradation.... This thereby might suggest to one familiar with the art that a crosslinked composition, even one containing a crosslinker would not exhibit increased tolerance to a subsequent dose of radiation but

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rather might degrade further. This is in direct contradistinction to applicant's claims that an article of the crosslinked composition within the subject matter would be more radiation tolerant than an article not comprising the crosslinked composition of the subject matter.

Applicant believes the claims under consideration are now in condition for allowance and respectfully requests that a timely notice of allowance of the elected claims be issued in this case.

Respectfully Submitted,

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